

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

SALAHUDDIN, Syed Z. et al.

Application for Reissue of U.S. Patent
No.: 6,054,283 granted April 25, 2000

Filed: December 23, 1996

For: ANTIBODIES AGAINST HUMAN
HERPESVIRUS-6 (HHV-6) AND
METHOD OF USE

**REISSUE DECLARATION UNDER 37
C.F.R. § 1.175(a)**

Box Reissue

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

We, Syed Z. Salahuddin, Dharam V. Ablashi, Steven F. Josephs, Carl W. Saxinger,
Flossie Wong-Staal and Robert C. Gallo, declare as follows:

1. We are citizens and residents of the United States of America.
2. We have assigned the entire right, title, and interest in U.S. Patent No. 6,054,283 to the United States of America as represented by the Secretary of the Department of Health and Human Services.
3. We are the original, first, and joint inventors of the invention described and claimed in the above-identified United States Letters Patent and the claims added by the above referenced reissue application, for which invention we seek a reissue of the aforesaid Letters Patent.

4. We do not know and do not believe that the invention was ever known or used in the United States of America before our invention thereof.

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6. We acknowledge the duty to disclose information of which we are aware and which is material to the examination of this application for reissue of the original Letters Patent in accordance with 37 C.F.R. § 1.56.

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Full name of first inventor: Syed Z. Salahuddin

Inventor's signature:  Date: 100.11.03

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Residence: U.S.

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Full name of second inventor: Dharam V. Ablashi

Inventor's signature: _____ Date:

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: _____

Full name of third inventor: Steven F. Josephs

Inventor's signature: _____ Date:

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Page 5

PATENT

Full name of fourth inventor: Carl W. Saxinger

Inventor's signature: _____ Date:

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: _____

Full name of fifth inventor: Flossie Wong-Staal

Inventor's signature: _____ Date:

Country of Citizenship: U.S.

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Full name of sixth inventor: Robert C. Gallo

Inventor's signature: _____ Date:

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60073711 v1

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Inventor's signature: _____ Date:

Country of Citizenship: U.S.

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Post Office Address: _____

Full name of second inventor: Dharam V. Ablashi

Inventor's signature: Dharam V. Ablashi Date: 11/6/03

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Full name of third inventor: Steven F. Josephs

Inventor's signature: _____ Date:

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Full name of fifth inventor: Flossie Wong-Staal

Inventor's signature: _____ Date:

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Full name of sixth inventor: Robert C. Gallo

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Inventor's signature: _____ Date:

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: _____

Full name of second inventor: Dharam V. Ablashi

Inventor's signature: _____ Date:

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Full name of third inventor: Steven F. Josephs

Inventor's signature:  Date: 11/4/03

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PATENT

Full name of fourth inventor: Carl W. Saxinger

Inventor's signature: _____ Date:

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Full name of fifth inventor: Flossie Wong-Staal

Inventor's signature: _____ Date:

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Full name of sixth inventor: Robert C. Gallo

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Inventor's signature: _____ Date:

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: _____

Full name of second inventor: Dharam V. Ablashi

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PATENT

Full name of fourth inventor: Carl W. Saxinger

Inventor's signature: Carl Saxinger Date: 11/4/03

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: 6814 Renta Lane, Bethesda MD. 20817

Full name of fifth inventor: Flossie Wong-Staal

Inventor's signature: _____ Date:

Country of Citizenship: U.S.

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Full name of sixth inventor: Robert C. Gallo

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Inventor's signature: _____ Date:

Country of Citizenship: U.S.

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PATENT

Full name of fourth inventor: Carl W. Saxinger

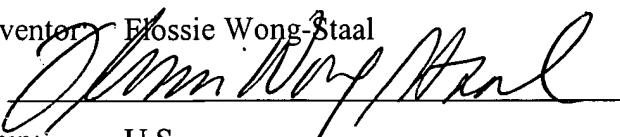
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Full name of fifth inventor: Flossie Wong-Staal

Inventor's signature:  Date: 11/4/03

Country of Citizenship: U.S.

Residence: U.S.

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2. We have assigned the entire right, title, and interest in U.S. Patent No. 6,054,283 to the United States of America as represented by the Secretary of the Department of Health and Human Services.
3. We are the original, first, and joint inventors of the invention described and claimed in the above-identified United States Letters Patent and the claims added by the above referenced reissue application, for which invention we seek a reissue of the aforesaid Letters Patent.

4. We do not know and do not believe that the invention was ever known or used in the United States of America before our invention thereof.

5. We have reviewed and understand the contents of the attached specification and claims, including the new claims as presented in this application for reissue of the original Letters Patent.

6. We acknowledge the duty to disclose information of which we are aware and which is material to the examination of this application for reissue of the original Letters Patent in accordance with 37 C.F.R. § 1.56.

7. We believe the original patent to be partly inoperative in that the original patent failed to adequately claim priority under 35 U.S.C. § 120 to an earlier filed copending U.S. Patent application. The specification correctly states that the application from which U.S. Patent No. 6,054,283 issued is a divisional of USSN 08/392,674, filed February 22, 1995 which was a continuation of USSN 07/754,220, filed August 27, 1991, which was a continuation of USSN 07/255,712, filed October 11, 1988, which was a CIP of USSN 07/228,550, filed August 4, 1998, which was a CIP of USSN 06/901,602, filed August 29, 1986, which was a CIP of USSN 06/892,423, filed August 4, 1986. The specification incorrectly states that USSN 06/892,423 was a CIP of USSN 06/895,857, filed August 12, 1986, which was a CIP of USSN 06/895,463, filed August 11, 1986. USSN 06/892,423, USSN 06/895,857, and USSN 06/895,463 were in fact copending applications and not CIP's of each other.

8. We believe that the failure to adequately claim priority arose from the prolonged and complicated prosecution of this series of patent applications. All

of these errors arose without any deceptive intention on our part. The errors were discovered after the patent issued as part of a review by other patent counsel.

9. We believe the original patent to be partly inoperative in that the original patent claims less than we have a right to claim in the patent. Our invention is generally directed to methods of detecting human B lymphotropic virus (HBLV) infection. Claims 2 and 3 of the issued patent recite two distinct methods by which HBLV infection can be detected. Claim 2 describes a method of detecting HBLV infection by contacting an antibody that specifically binds to an antigenic molecule from HBLV with a biological sample and detecting the antibody-antigen complex. Claim 3 describes a method whereby the antibody-antigen complex is detected by a western blot.

The methods recited in claims 2 and 3 are not the only methods of detecting HBLV infection. For example, HBLV infection can be detected by immunoassays that detect antibodies that specifically bind to HBLV as described at column 10, lines 59-67 and column 13, lines 3-6 of U.S. Patent No. 6,054,283.

10. We believe that the unduly constrained literal scope of the present claims arose from insufficient communication between us and patent counsel as a result of which the patent counsel lacked full appreciation of the scope and function of the invention. These errors in claiming less than we had a right to claim arose without any deceptive intention on our part. The errors were discovered after the patent issued as part of a review by other patent counsel.

11. We hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such

willful false statements may jeopardize the validity of the application or any patent issuing thereon.

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